

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL MEMORANDUM**

**HB 525 – SB 1093**

May 5, 2009

**SUMMARY OF AMENDMENT (005613):** Broadens the offense of first degree felony murder to include the killing of another person while committing domestic abuse if there was a past pattern of domestic abuse upon a domestic abuse victim as defined in Tenn. Code Ann. § 36-3-601(5). Violation is punishable by death, life imprisonment, or life without parole.

**FISCAL IMPACT OF ORIGINAL BILL:**

Increase State Expenditures - \$23,100/One-Time  
\$253,500/Recurring  
\$5,242,100/Incarceration\*

Other Fiscal Impact – It is estimated that an average of one offender per year will receive a death sentence. If a death sentence offender serves an average of 20 years before the sentence is carried out, there will be no significant additional incarceration costs for the death-sentenced offender, apart from the execution. The cost of executing each inmate will exceed \$15,000. The cost to the State of trials and appeals from death-sentenced offenders is substantially higher than for other cases. It is estimated that the additional cost of trials and appeals from death sentences will exceed \$750,000 for each case.

**FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

**Unchanged from the original fiscal note.**

Assumptions applied to amendment:

- According to the Tennessee Bureau of Investigation Crime in Tennessee Report, there has been an average of 64 arrests for murder related to domestic violence in each of the past three years.
- The Department of Correction (DOC) estimates 35 percent (22) would have a past pattern of domestic abuse and would be sentenced to first degree murder rather than second degree murder and would serve an

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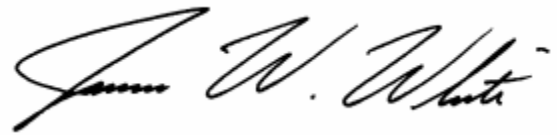
additional 34 years (an increase from 17 years to 51 years) as a result of this bill.

- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in three additional offenders serving additional time in the tenth year after the sentence increase is added to time currently served. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 25 offenders. One of the 25 offenders will receive a death sentence.
- According to DOC, the average operating cost per offender per day for calendar year 2009 is \$59.80. The cost per offender at 17.0 years is \$371,313.15 (\$59.80 x 6,209.25 days). The cost at 27.0 years (10<sup>th</sup> year) is \$589,732.65 (\$59.80 x 9,861.75 days). The additional cost of increasing the average sentence length is \$218,419.50 (\$589,732.65 - \$371,313.15). The total additional operating cost for 24 offenders is \$5,242,068 (\$218,419.50 x 24).
- Public defenders and district attorneys general will require additional resources for trial and appeal of additional death and life without parole cases. Supreme Court rules require appointment of two defense attorneys in each death penalty case, and specialized training. Reimbursement rates for appointed defense counsel are higher in death cases. Attorneys handling death cases are subject to greater limitations on their caseloads, requiring additional attorneys to handle other cases.
- Recurring costs of \$253,500 reflect two additional assistant public defender positions and one assistant district attorney position including salaries and benefits of \$231,000, and \$22,500 for travel, supplies, and other related costs. One-time costs of \$23,100 reflect the computer equipment, furniture, and other related costs for three positions.
- Tennessee has executed five inmates in the past nine years. Each execution is estimated to cost in excess of \$15,000.
- The State incurs substantial out-of-pocket expenses in death-sentence trials and appeals. These include costs of appointed attorneys, expert witnesses, investigation, and related matters. These additional costs are estimated to exceed \$750,000.

*\*Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

**CERTIFICATION:**

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is fluid and cursive, with the first name "James" written in a more compact, stylized script, followed by "W." and "White".

James W. White, Executive Director

/lsc